

AMENDED IN SENATE APRIL 14, 2011

AMENDED IN SENATE APRIL 4, 2011

SENATE BILL

No. 599

Introduced by Senator Kehoe

February 17, 2011

An act to amend Section 10170 of the Insurance Code, relating to life insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 599, as amended, Kehoe. Life insurance: retained-asset account.

Existing law provides that life insurance may be made payable, among other things, on the death of the insured, on his or her surviving for a specified period of time, or periodically as long as he or she lives.

~~This bill would prohibit an individual or group life insurance policy delivered or issued for delivery in this state from containing a provision that requires the beneficiary to take life insurance proceeds in the form of a retained-asset account, as defined, or any arrangement other than a lump-sum payment. The bill would require that unless a policyholder or beneficiary has elected in writing that the beneficiary be paid life insurance benefits in another form, all life insurance benefits would be paid in the form of a lump-sum payment to the beneficiary. Any life insurance benefits settlement insurer recommendations and agreements, other than for a lump-sum payment, would be required to conform to specified conditions. The bill would authorize the Insurance Commissioner to adopt regulations specifying reasonable requirements for the form of agreements entered into and written disclosures provided by these provisions.~~

This bill would require that all life insurance benefits be paid in the form of a lump-sum payment to the beneficiary or by another settlement

option that is clearly described in the claim form. If the beneficiary does not choose one of the available settlement options, a retained-asset account would be authorized to be the default option only if the claim form provides a prominent disclosure, as prescribed, that in the absence of a choice by the beneficiary, payment of policy benefits would be made through establishment of a retained-asset account on the beneficiary's behalf. Any life insurance benefits settlement an insurer offers or recommends, other than for a lump-sum payment, would be required to conform to specified conditions. The bill would authorize the Insurance Commissioner to adopt regulations specifying reasonable requirements for the form of agreements entered into and written disclosures provided by these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10170 of the Insurance Code is amended
2 to read:
3 10170. Life insurance may be made payable as follows:
4 (a) On the death of the insured.
5 (b) On his or her surviving a specified period.
6 (c) Periodically as long as he or she lives.
7 (d) Otherwise contingently on the continuance or determination
8 of life.
9 (e) Upon those terms and conditions and subject to those
10 restrictions as to revocation by the policyholder and control by
11 beneficiaries as shall have been agreed to in writing by the insurer
12 and the policyholder. If no terms and conditions have been agreed
13 to by the insurer and the policyholder during the insured's lifetime
14 then upon those terms and conditions and subject to those
15 restrictions as may be agreed to in writing by the insurer and the
16 beneficiaries. Any agreement may be rescinded or amended by
17 the parties to the agreement without the consent of any designated
18 beneficiary unless the rights of any beneficiary have been expressly
19 declared to be irrevocable. No agreement hereafter made shall vest
20 in the insurer discretion as to the conditions, time, amount, manner,
21 or method of payment. The relationship between the insurer and
22 the policyholder or beneficiaries under any agreement shall be that
23 of debtor and creditor, and the insurer shall not be required to

segregate funds so held but shall hold them as a part of its general corporate assets.

~~(f) An individual or group life insurance policy delivered or issued for delivery in this state shall not contain a provision that requires the beneficiary to take life insurance proceeds in the form of a retained-asset account or any arrangement other than a lump-sum payment. Notwithstanding subdivision (e), unless a policyholder or beneficiary has elected in writing that the beneficiary shall be paid life insurance benefits in another form, all life insurance benefits shall be paid in the form of a lump-sum payment to the beneficiary. If the life insurance policy provides for settlement options in addition to a lump-sum payment to the beneficiary, a policyholder shall have the option to choose how benefits are to be paid to the beneficiary. Any choice by the policyholder shall be reflected in writing. If no election as to how life insurance proceeds are to be paid has been made by the policyholder during the insured's lifetime, then the beneficiary, at the time the death claim is made, shall choose how life insurance proceeds are paid and unless the beneficiary agrees in writing to receive payment in a form other than a lump-sum payment, the proceeds shall be paid in the form of a lump-sum payment.~~

(f) Notwithstanding subdivision (e), all life insurance benefits shall be paid in the form of a lump-sum payment to the beneficiary or by another settlement option that is clearly described in the claim form. If the beneficiary is provided settlement options in addition to a lump-sum payment, the beneficiary shall have the option to choose how benefits are to be paid to the beneficiary. If the beneficiary does not choose one of the available settlement options, a retained-asset account may be the default option only if the claim form provides a prominent disclosure that, in the absence of a choice by the beneficiary, payment of policy benefits shall be made through establishment of a retained-asset account on the beneficiary's behalf. This disclosure shall be provided in the portion of the claim form where the beneficiary is offered the ability to select his or her choice of payment method and shall be in bold 14-point font type. In all such cases, whether by beneficiary choice or default, the insurer shall provide to the beneficiary the disclosure provided for in Section 10509.936.

(1) If an insurer ~~recommends~~ offers an option or recommends the option to a policyholder that the beneficiary receive life

1 insurance proceeds in the form of a retained-asset account or any
2 arrangement other than a lump-sum payment, the insurer shall
3 provide the policyholder, at the time the *offer or* recommendation
4 is made, written information describing each of the settlement
5 options available under the policy and specific details relevant to
6 those options. If an insurer *offers or* recommends to a beneficiary
7 that the beneficiary receive life insurance proceeds in the form of
8 a retained-asset account or any arrangement other than a lump-sum
9 payment *in advance of the time the claim is made*, the insurer shall
10 provide the beneficiary, ~~at the time a claim is made~~, written
11 information describing each of the settlement options available
12 under the policy and specific details relevant to those options. *If*
13 *an insurer offers or recommends to a beneficiary that the*
14 *beneficiary receive life insurance proceeds in the form of a*
15 *retained-asset account at the time a claim is being made, the*
16 *insurer shall comply with the procedures set forth in Article 11*
17 *(commencing with Section 10509.930) of Chapter 5.*

18 (2) For purposes of this subdivision, the following terms have
19 the following meanings:

20 (A) “Lump-sum payment” means a single payment made directly
21 to the beneficiary that satisfies all of the benefits owed to the
22 beneficiary.

23 (B) “Retained-asset account” means any mechanism whereby
24 the settlement of proceeds payable under a life insurance policy
25 is accomplished by the insurer, or an entity acting on behalf of the
26 insurer, by depositing those proceeds into or establishing an
27 account where those proceeds are retained by the insurer pursuant
28 to a ~~supplementary~~ *supplemental* contract not involving annuity
29 benefits.

30 (g) The commissioner may, from time to time and after notice
31 and public hearing, adopt regulations specifying reasonable
32 requirements for the form of agreements entered into and written
33 disclosures provided pursuant to subdivisions (e) and (f), and for
34 compliance with Section 10172.5.